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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

In re B.T., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

B.T.,

Defendant and Appellant.

A154740

(Alameda County  
Super. Ct. No. JV02627412)

B.T.<sup>1</sup>, a ward of the court, appeals from a juvenile court dispositional order committing him to the care and custody of the probation department for placement in a suitable foster home, private institution, group home, or county facility. The dispositional order was entered after the juvenile court sustained a Welfare and Institutions Code section 602, subdivision (a)<sup>2</sup>, petition, based on appellant's admission that he committed an act constituting second degree burglary (Pen. Code, § 459).

<sup>1</sup> Pursuant to the California Rules of Court, governing privacy and confidentiality in opinions, individuals are referred to by their initials. (Cal. Rules of Court, rules 8.90(b)(10)(11), 8.401(a)(2).)

<sup>2</sup> All further unspecified statutory references are to the Welfare and Institutions Code.

Appellant challenges, on various grounds, the court's denial of his request for placement at a county camp (hereinafter referred to as Camp). We affirm the dispositional order.

### **FACTS<sup>3</sup>**

#### **A. Jurisdictional Proceedings**

In May 2018, while then 15-year old appellant was a ward of the court, the Alameda County District Attorney filed a section 602, subdivision (a), petition, alleging appellant had committed acts that constituted the felony offenses of second degree robbery (Pen. Code, § 211) (three counts) and second degree burglary (Pen. Code, § 459) (two counts). The charges were based on an incident at a local motel during which six youths between the ages of 15 and 18 broke into a motel room and assaulted and robbed the housekeeping staff. The petition also alleged appellant had four prior juvenile adjudications since the age of 13.

At the jurisdictional hearing, the juvenile court accepted appellant's admission to one count of second degree burglary and found he continued to be described by section 602; the remaining allegations were dismissed pursuant to a negotiated disposition. Appellant's attorney asked the court to direct the probation department to screen appellant for placement at Camp. The court denied the request because it wanted a new dispositional report to understand why appellant was again before the court. The court directed the probation department to analyze appellant's circumstances with "an eye toward Camp;" if Camp was "a good fit," the court would give strong consideration to that recommendation.

#### **B. Dispositional Proceedings**

Before the originally scheduled dispositional hearing, the probation department submitted a report indicating that, following earlier juvenile adjudications, appellant had been placed in the respective homes of his mother and his maternal grandmother under probationary supervision. In light of the current adjudication, the probation department

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<sup>3</sup> We set forth only those facts as are necessary to resolve appellant's challenge to the dispositional order.

recommended that appellant be removed from the custody of his mother and maternal grandmother and placed in a suitable family or group home with standard out-of-home probation conditions. In support of the recommendation, the probation department officer noted that “[t]he minor has failed to perform with each chance given by the Court thus far. The minor has violated probation via several recent GPS failures, each time being returned to the probation department by local police following involvement/alleged involvement in a criminal act.” Also, the probation department officer’s assessment of appellant’s risk of recidivism, using a standardized test, placed him in the “HIGH Category for re-offending within the next year.” The S.O.S. (Screening for Out of Home Placement) committee also reviewed appellant for out-of-home placement based on his “mental health status, placement history, the home environment, the mother’s feelings, concerns, and desire[s] for her son under the current circumstances, and the logistics of any [proposed] placement due to the minor’s potential towards flight.” The probation department officer concluded his report by noting as follows:

“A review of the minor’s case history and Guidance Clinic evaluation (dated August 31, 2016), indicates that the minor has a diagnosis of an intellectual disability, and meets the criteria for Attention Deficit Hyperactivity Disorder (predominately the hyperactive impulsive type). The Guidance Clinic evaluation indicates the minor has a historical pattern of defiance towards adults and authority figures and otherwise refusing to comply with direction. The minor has an Individualized Education Plan in place at [high school]. At this point, the minor has demonstrated an inability to perform according to the expectations of the Intensive Supervision Unit, as well as the home of his parent and/or guardian, perhaps due to the diagnosed disability.

“Following an opportunity to demonstrate satisfactory performance while pending further disposition [on a prior supplemental petition], the minor has failed to perform. The minor has demonstrated that he is not amendable to probationary supervision in the Intensive Supervision Unit. The minor’s current level of probation requires escalation at this time, as there is a general concern for the safety of the community at large.

“Today’s matter was screened with the Screening for Out of Home Placement Committee (S.O.S.), for further recommendation. During the screening . . . meeting, the minor’s mother . . . was contacted by telephone. [She] reported that she was perplexed concerning what to do/should be done for her son under the current circumstances. She confirmed that the youth has a history of diagnosis with an intellectual disorder, and attention deficit disorder, but he does not require medication. One of her chief concerns is that the youth’s educational needs be met appropriately, a concern that was echoed by the S.O.S. Committee, and factored in the recommendation decision process. Additionally, [the probation department officer] is concerned for the minor’s personal safety and welfare due to his involvement in criminal activities/alleged criminal activities, and unsupervised activities in general.

“It was the general consensus of the S.O.S. committee that the minor’s matter be escalated to placement level. The [probation department officer] is in agreement with the S.O.S. committee’s recommendation of out of home placement.”

At the initial dispositional hearing on June 7, 2018, appellant’s attorney acknowledged appellant needed to be removed from his mother’s home and argued for appellant’s placement at Camp based on appellant’s desire for Camp placement and its proximity to his home and his relatives. According to counsel, proximity to relatives was significant as appellant needed the support of their visits since his father had been murdered, he had “a lot of childhood trauma,” and he functioned “at a much lower age developmentally.” Counsel further informed the court that “a long time ago” appellant had been sent to “group homes and it was a disaster,” because he was too young and impulsive. He lasted only a week at each group home and was ultimately returned to his home when his father was murdered. Counsel represented that appellant did not have a demonstrated “AWOL” history of leaving out of home placements without permission, but rather he ran away from the homes of his mother and grandmother due to triggers from his childhood trauma. Counsel further asserted that the S.O.S. committee’s decision not to send appellant to Camp was because it did not offer special education classes, which was a violation of “the Americans With Disabilities Act.” Based on counsel’s

arguments, the court continued the matter to allow the probation department to file a report explaining why appellant was not eligible for Camp placement.

Before the continued dispositional hearing, the probation department refiled its earlier report, adding the following pertinent information: “On June 11, 2018, a case conference with Camp . . . Superintendent [J.F.], Camp Supervisor [T-W.], Camp Deputy Probation Officer [R.L.], and [the probation department officer], was held to discuss the Court’s request to review the youth for Camp . . . suitability. We reviewed the minor’s probation history, and an email from [appellant’s counsel] [4]. It was determined, this youth’s treatment needs are greater than the services provided at Camp . . . . At this time the youth is not suitable for placement at Camp . . . .”

At the June 21, 2018 continued dispositional hearing, the juvenile court heard argument from appellant’s counsel as to why appellant should be placed at Camp. The court also heard argument from the trial prosecutor in support of the probation department’s recommendation of out of home placement. The juvenile court then continued appellant as a ward of the court, removed him from the custody of his mother and grandmother, and committed him to the care and custody of the probation department for placement “in a suitable family home or group home with standard home conditions of probation.” ~CT 132-133; see 6/21/18 RT 16 [lines 6-8])~ The court specifically denied appellant’s request to be placed at Camp, ruling that appellant did not have a legal right to such a placement. The court acknowledged counsel’s argument that in the past Camp staff had been able to meet the needs of other children, but commented that in this case Camp staff could not meet appellant’s needs because he had “other things, like an AWOL history.”

Appellant’s timely appeal ensued.

## **DISCUSSION**

Appellant’s sole argument on appeal is that the juvenile court erred in refusing his request for Camp placement. According to appellant, the refusal to place him at Camp

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<sup>4</sup> The email is not been included in the record on appeal.

was based on the court's erroneous belief that Camp could not meet his educational needs. He argues the court's finding was "legal error" because Education Code section 56150 mandates that special education needs must be provided to an adjudicated minor placed in a Camp program. He also argues the denial was not "supported by substantial evidence" because the court relied solely on the probation department reports, no witnesses testified at the depositional hearing, and it is unclear how much consideration appellant was given when Camp staff made its determination that appellant's treatment needs were greater than the services provided at Camp. He further contends the court abused its discretion in finding that placement in a foster or group home could better meet his educational needs because there was no substantial evidence to support the finding that Camp could not meet his educational needs and no substantial evidence that placement in foster or group home could better meet his needs. For the reasons we now discuss, we see no merit to appellant's contentions.

The law governing dispositional proceedings is well settled. At the dispositional hearing, the juvenile court "considers the probation officer's social study and other evidence to determine an appropriate disposition. (§ 706.) In reaching a disposition, the court considers (1) the minor's age, (2) the circumstances and gravity of the offense, and (3) the minor's previous delinquent history. (§ 725.5.) The court may place the minor on probation, with or without declaring the minor a ward of the court, or it may declare the minor a ward and order appropriate treatment and placement. (§§ 725, 726.) Placement options include the home of a relative or extended family member; a suitable licensed community care facility or foster home; juvenile hall; a ranch, camp or forestry camp; and, the most restrictive setting, [Division of Juvenile Facilities]. (§§ 727, subd. (a), 730, subd. (a), 731, subd. (a)(4).)" (*In re Greg F.* (2012) 55 Cal.4th 393, 404.) Thus, "[t]he statutory scheme governing juvenile delinquency is designed to give the court 'maximum flexibility to craft suitable orders aimed at rehabilitating the particular ward before it.' [Citation.]" (*Id.* at p. 411.) "[J]uvenile placements need not follow any particular order under section 602 . . . , including from the least to the most restrictive." (*In re Eddie M.* (2003) 31 Cal.4th 480, 507.) Rather, the propriety of a juvenile dispositional order is to

be considered “ ‘in light of the purpose of the Juvenile Court Law,’ ” which is set forth in section 202. (*In re Jose T.* (2010) 191 Cal.App.4th 1142, 1147.) Section 202, subdivision (a), states the purpose of the law “is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor’s family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public.” While minors are to be provided with the care, treatment, and guidance that is in their best interests, any such services must also be “in conformity with the interests of public safety and protection.” (§ 202, subd. (b).)

The law governing our review of dispositional orders is also well settled. As a general rule, we review a juvenile court’s dispositional order for an abuse of discretion. (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329–1330.) As an appellate court, we “will not lightly substitute [our] decision for that rendered by the juvenile court. We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] In determining whether there was substantial evidence to support the commitment, we must examine the record presented at the disposition[al] hearing in light of the purposes of the Juvenile Court Law. [Citations.]” (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395.)

We initially reject appellant’s contention that the court committed legal error by denying Camp placement based upon appellant’s need for special education services as the record does not demonstrate that appellant was denied Camp placement due to his education needs. On June 7, 2018, appellant’s counsel informed the court that appellant had been found not suitable for Camp placement because the staff could not provide for appellant’s special education needs. However, at the June 21, 2018 hearing, appellant’s “education attorney” stated that a county contractor told her Camp could implement appellant’s individualized education plan by “a special education teacher on-site.” To that end, the attorney had asked to have appellant’s individualized education plan modified so that he would be able to go to Camp without any issue; the plan had in fact

then been modified and his mother just needed to sign the paperwork. In rejecting the request for Camp placement, the court made no statement that it was explicitly rejecting the placement because of appellant's educational needs. Rather, the court responded to appellant's various reasons for Camp placement by noting that its decision was to be based on what the court believed was "in [appellant's] best interests, and it doesn't make any sense . . . to put [appellant] somewhere that can't meet his needs," the court could not "afford to waste time with [appellant] languishing someplace that isn't going to meet his needs," and that while Camp staff were able to meet the needs of other children, appellant "does have other things, like an AWOL history."

We also see no merit to appellant's contentions that the juvenile court's placement decision was not supported by substantial evidence, thereby constituting an abuse of discretion. As a preliminary matter, we reject appellant's complaints concerning the juvenile court's reliance on the information in the probation department reports and the failure to request live testimony. The juvenile court is not required to conduct a dispositional hearing with live testimony, but is free to rely on information contained in the probation department reports and argument of counsel. (See § 706; California Rules of Court, rule 5.785(b).) Appellant also complains that the court made no "detailed inquiry" into Camp staff's recommendation that appellant was not a suitable candidate. However, no such detailed inquiry was required of the court. In making its placement decision, the court apparently considered that the 15-year-old appellant had multiple problems, not limited to his disability issues and special education needs, that needed to be addressed in any placement, and could appropriately accept Camp staff's conclusion that appellant's needs could not be met at that placement including his potential for flight. In so ruling, the court noted appellant's "AWOL" history, which reflected that when he left the homes of his mother and his grandmother he did not just run away but continued to involve himself in the commission or alleged commission of criminal acts. The court was free to reject appellant's reasons for his "AWOL" history and his assertion that he would not leave Camp.

Appellant asks us to reweigh the evidence and substitute our judgment for that of the juvenile court. We cannot do so and, given the absence of any contrary indication, we presume the juvenile court considered all relevant factors in making its placement decision. (See, e.g., *People v. Moran* (1970) 1 Cal.3d 755, 762 [trial court is presumed to perform its official duty (Evid. Code, § 664); “the trial court had sufficient information upon which to exercise its discretion. In the absence of any showing to the contrary, we must presume that it did so”].) Because appellant has failed to demonstrate any error of law or abuse of discretion based on a lack of substantial evidence to support the court’s placement decision, we must affirm the dispositional order.

#### **DISPOSITION**

The June 21, 2018 dispositional order is affirmed.

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Petrou, J.

WE CONCUR:

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Siggins, P.J.

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Fujisaki, J.

*People v. B.T./A154740*